

Christopher J. Reichman SBN 250485
Justin Prato SBN 246968
PRATO & REICHMAN, APC
3675 Ruffin Road, Suite 220
San Diego, CA 92123
Telephone: 619-683-7971
chrisr@prato-reichman.com
justinp@prato-reichman.com

Attorneys for Class and Named Plaintiff
PAUL SAPAN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PAUL SAPAN, individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

vs.

VERITAS FUNDING, LLC,

Defendants.

Case No.:

CLASS ACTION COMPLAINT

**Violation(s) of Telephone
Consumer
Protection Act of 1991**

Jury Trial Demanded

Plaintiff PAUL SAPAN (“Plaintiff” and/or “Plaintiffs”), individually and on behalf of the Class described below, by their attorneys, make the following allegations based upon information and belief, except as to allegations specifically pertaining to Plaintiffs and their counsel, which are based on personal knowledge. Plaintiffs bring this action for injunctive relief and damages against Defendant demanding a trial by jury.

JURISDICTIONAL ALLEGATIONS

1. Plaintiff at all times herein mentioned was a resident of the County of Orange, State of California.

2. Defendant VERITAS FUNDING, LLC is, and at all times herein mentioned was, a Utah Corporation, headquartered in the State of Utah, doing business in the County of Orange, State of California (hereinafter referred to as “Defendant” and/or “Veritas Funding”).

3. This case is filed pursuant to the Telephone Consumer Protection Act of 1991, 47 U.S.C. §227 et. seq. (“TCPA”). The U.S. Supreme Court decided that federal courts have federal question subject matter jurisdiction over such TCPA civil actions under 28 U.S.C. §§ 1331 and 1441. *Mims v. Arrow Fin. Services, LLC*, 565 U.S. 368, 387, 132 S.Ct. 740, 753 (2012).

4. At all times herein mentioned each employee, representative, officer, director, or consultant of any Defendant was acting as its agent.

NATURE OF THE ACTION

5. Plaintiffs bring this class action against Defendant for injunctive relief and damages and all other relief available at law and in equity on behalf of themselves and members of the following class of persons:

All persons and entities located within the United States of America who claim to be able to provide a phone bill or statement showing they were a residential telephone subscriber and that their number was registered on the National Do-Not-Call Registry to whose residential telephone Defendant and/or its agents transmitted two or more telemarketing calls in one calendar year without prior express written consent from the called party or an ‘existing business relationship’ at any time from March 14, 2019 to the present, including up to and through trial.

1 6. The TCPA was passed in order to regulate telemarketing by
2 prohibiting, *inter alia*, phone calls to numbers on the federal Do Not Call Registry
3 run by the Federal Trade Commission. 47 U.S.C. § 227(b)(1)(B).

4 7. Veritas Funding is engaged in a scheme to sell mortgage refinance
5 services via cold calls to residential phone numbers on the protected federal Do
6 Not Call Registry.

7 8. Thus, Veritas Funding is engaging in making illegal telemarketing
8 calls prohibited by the Telephone Consumer Protection Act of 1991 (“TCPA”),
9 which gives victims of junk calls a private right of action to sue for the intrusion on
10 their privacy.

11 9. The modus operandi is the same for all the calls in this case, Veritas
12 Funding, either directly or through the use of an agent acting at the direction of
13 Veritas Funding calls various numbers in the United States to sell Veritas Funding’s
14 services without regard to whether those numbers are on the Do Not Call Registry
15 or not.

16 10. Veritas Funding and/or its agents do not check the federal Do Not Call
17 Registry before making these calls nor engage in any Do Not Call Registry
18 compliance.

19 11. These cold calls are made to massive lists of phone numbers in the
20 United States with no regard for whether these numbers have been registered on
21 the National Do-Not-Call Registry (“DNC”) or not.

22 12. Veritas Funding has intentionally violated the TCPA in a so-far
23 successful attempt to sell financial and/or mortgage packages for years.

24
25 **FACTUAL DETAILS RE NAMED PLAINTIFF**

26
27 13. Defendants made three (3) calls to PAUL SAPAN’s home phone
28 number (310-444-1999) wherein they tried to pitch their financial services on the

1 following dates and times and using the following Caller ID (“CID”) numbers and
2 Caller ID name (“CNAM”):

- 3 • October 13, 2021, 8:37 am pm, CID 302-594-8254, CNAM [none].
- 4 • October 13, 2021, 8:40 am, CID 302-594-8254, CNAM [none].
- 5 • October 13, 2021, 8:44 am, CID 602-704-0298, CNAM “Veritas
6 Funding”.

7 14. Mr. Sapan made a log of all the calls he received from Veritas
8 Funding during or shortly after receiving the calls which includes the date and time
9 of the call and the Caller ID information as well as brief notes about what
10 happened during the calls.

11 15. The first two calls illegally blocked transmitting Caller ID Name
12 information. *See*, 47 U.S.C. § 227(e) (Truth in Caller ID Act of 2009).

13 16. Mr. Sapan’s residential line has been tariffed as a residential line since
14 he was assigned it by the phone company and it has been continuously registered
15 on the National “Do-Not-Call” Registry from at least December 22, 2007 to the
16 present.

17 17. Mr. Sapan never gave any Veritas Funding or any other person, agent,
18 employee or entity associated with Veritas Funding express written permission to
19 call him, nor does he have an established business relationship nor personal
20 relationship with Veritas Funding or any other person, agent, employee or entity
21 associated with Veritas Funding.

22 18. During the first call on October 13, 2021, 8:37 am, Veritas Funding
23 used Caller ID Number 302-594-8254 and illegally blocked a Caller ID Name
24 from appearing and, since he could not tell who was calling, Mr. Sapan answered
25 the call.

26 19. The caller who had a thick Indian accent self-identified as “Alex”
27 from “National Mortgage Headquarters”, whatever that means, and asked Mr.
28 Sapan about his interest in refinancing.

1 20. Since “National Mortgage Headquarters” sounds generic and could
2 apply to any company’s ‘National Mortgage Headquarters’ and Mr. Sapan knows
3 from extensive experience that junk telemarketers constantly use vague and
4 generic fake names to introduce their pitches in order to evade detection and
5 liability for illegal calling, Mr. Sapan decided to play along to determine who this
6 really was.

7 21. After Mr. Sapan played along saying he owned a home and had a
8 mortgage, “Alex” attempted to bring the real mortgage refinance company who
9 hired these telemarketing agents on the line but the transfer/merge to ran into a
10 technical glitch and the call hung up.

11 22. Mr. Sapan very specifically did not consent to any callback at any
12 point during this call.

13 23. At this point, after the first call, Mr. Sapan still did not know who was
14 behind this calling since the transfer from the telemarketing agent to the company
15 actually selling the mortgage refinance did not work.

16 24. Veritas Funding called again at October 13, 2021 at 8:40 am using the
17 CID number 302-594-8254 and when Mr. Sapan answered it was “Alex” and he
18 brought a person on the line who self-identified as “Devon with Veritas Funding”
19 who began pitching Veritas Funding’s mortgage refinance services.

20 25. Mr. Sapan asked a couple questions before telling them not to call him
21 any more in order to confirm that this was actually Veritas Funding and Devon
22 stated Veritas Funding was a direct lender and that they were located in Utah.

23 26. Veritas Funding never gave Mr. Sapan the opportunity to tell them not
24 to call him because the call was dropped apparently because of some technical
25 glitch, perhaps similar to the one in the first call.

26 27. Veritas Funding called again at October 13, 2021 at 8:44 am using the
27 CID number 602-704-0298 and transmitting a Caller ID Name reading “Veritas
28 Funding”.

1 28. Mr. Sapan was busy and knew this was just another junk call from the
2 Caller ID Name and did not answer.

3 29. The caller left a voicemail saying it was “Devin Habetler of Veritas
4 Funding” which may or may not be the same Devon from the earlier call.

5 30. Mr. Sapan answered all but one of these three calls.

6 31. Each time he answered the caller self-identified as being with Veritas
7 Funding or in the case of the first call tried to bring a Veritas Funding
8 representative on the call but failed.

9 32. Each time he answered the caller tried to sell mortgage refinance
10 services

11 33. Mr. Sapan never agreed to any callbacks nor did he express interest in
12 the mortgage refinance services.

13 34. Plaintiff alleges on information and belief that Veritas Funding
14 transmitted the last call to Mr. Sapan’s residential line which was on the federal
15 “Do Not Call” Registry to sell their mortgage refinance services just like they did
16 in the previous calls.

17 35. Plaintiff pleads on information and belief that to the extent Veritas
18 Funding may have relied on any agent or other entity to make telemarketing calls
19 on its behalf, Veritas Funding had direct knowledge that such calls are being made
20 to residential numbers and to numbers on the Do Not Call Registry without
21 consent.

22 36. Alternatively, Plaintiff pleads on information and belief that to the
23 extent Veritas Funding may have relied on any agent or other entity to make
24 telemarketing calls on its behalf, Veritas Funding hired that agent to interact with
25 the public on Veritas Funding’ behalf using Veritas Funding’ name and therefore
26 gave implied authority to represent Veritas Funding.

1 37. Alternatively, Plaintiff pleads on information and belief that Veritas
2 Funding ratified the making telemarketing calls on its behalf if made by third-party
3 agents by knowing of the illegal conduct and failing to repudiate the conduct.

4 38. Veritas Funding may have made more violative calls to Plaintiff's
5 residential line that he was unable to log or identify at the time and expressly
6 includes claims for them herein even though the specifics of the dates and times
7 are unknown at this time without the aid of discovery.

8
9 **LIABILITY OF VERITAS FUNDING**
10

11 39. As detailed above, the caller self-identified as being "with Veritas
12 Funding" or always tried to bring a sales representative from Veritas Funding on
13 the line in every call that Mr. Sapan answered.

14 40. As detailed above, Mr. Sapan did not answer one of Veritas Funding's
15 illegal calls because it actually transmitted true Caller ID Name information as
16 required by law and he therefore knew it was Veritas Funding calling to attempt to
17 sell mortgage refinance like all the other calls and he was busy.

18 41. Plaintiff pleads on information and belief that the officers, managers
19 and employees for VERITAS FUNDING knew about the illegal telemarketing
20 calls as alleged above and in fact ordered such calls to be made because the calling
21 was cold call junk telemarketing not directed to any specific person and used a
22 technically sophisticated calling system that could illegally hide Caller ID Name
23 which indicates that this was an intentional and organized corporate sales effort
24 and not a rogue employee or random event.

25
26 ///

27
28 ///

POSSIBLE AGENT LIABILITY ALLEGATIONS

42. Plaintiff pleads on information and belief that to the extent Veritas Funding may have relied on any agent or other entity to make telemarketing calls on its behalf, Veritas Funding had direct knowledge that such calls are being made to residential numbers and to numbers on the Do Not Call Registry without consent and/or authorized such actions by, inter alia, allowing the agent to bring direct Veritas Funding representatives into the call to attempt to complete the sale.

43. Alternatively, Plaintiff pleads on information and belief that to the extent Veritas Funding may have relied on any agent or other entity to make telemarketing calls on its behalf, Veritas Funding hired that agent to interact with the public on Veritas Funding' behalf and therefore gave implied authority to represent Veritas Funding.

44. Alternatively, Plaintiff pleads on information and belief that Veritas Funding ratified the making telemarketing calls on its behalf if made by third-party agents by knowing of the illegal conduct and failing to repudiate the conduct for all the reasons given above.

45. Plaintiff pleads on information and belief that to the extent Veritas Funding uses any agents to make calls, Veritas Funding has ordered their agent to make the illegal telemarketing calls to residential numbers on the National "Do-Not-Call" Registry for its benefit.

46. Plaintiff pleads on information and belief that to the extent Veritas Funding uses any agents to make calls, Veritas Funding knew or reasonably should have known (implied agency), that its agents were was making the illegal calls to residential numbers on the National "Do-Not-Call" Registry.

47. Plaintiff pleads on information and belief that to the extent Veritas Funding uses any agents to make calls, Veritas Funding explicitly condoned the actions of such agents in making the illegal telemarketing calls to residential

1 numbers on the National “Do-Not-Call” Registry for its benefit by condoning their
2 actions afterwards.

3 48. Plaintiff pleads on information and belief that to the extent Veritas
4 Funding uses any agents to make calls, Veritas Funding explicitly hired by such
5 agent in order to make the illegal telemarketing calls to numbers on the National
6 “Do-Not-Call” Registry for the benefit of Veritas Funding.

7 49. Plaintiff pleads that all calls complained of above were made “on
8 behalf of” Veritas Funding. 47 U.S.C § 227(c)(5) (“A person who has received
9 more than one telephone call within any 12-month period by or on behalf of the
10 same entity in violation of the regulations prescribed under this subsection may, if
11 otherwise permitted by the laws or rules of court of a State bring in an appropriate
12 court of that State...” [emphasis added]).

13
14 **ACTUAL HARM & WILFUL AND KNOWING CONDUCT**

15
16 50. The Telephone Consumer Protection Act of 1991 (“TCPA”) was
17 passed in order to regulate telemarketing and requires that no telemarketer may call
18 any number registered on the National “Do-Not-Call” Registry without prior
19 express consent or a prior established business relationship.

20 51. Defendant has intentionally violated the TCPA in a so-far successful
21 attempt to sell financial and mortgage related services.

22 52. Plaintiff has been harmed by the junk calls complained of herein by
23 the direct waste of his time during the call itself, the indirect waste of time in
24 having to break from other important tasks and spend time catching up after the
25 junk call, the waste of telephone service which he and not Defendant must pay for,
26 the costs of having to pursue legal remedies, and in the aggravation and consequent
27 health effects of stress these illegal intrusions have caused.
28

1 53. Plaintiff has been harmed by the calls he did not answer by the direct
2 waste of his time in having to check the Caller ID while he was busy in meetings
3 or with other projects before declining the call, the indirect waste of time in having
4 to break from other important tasks and spend time catching up after these junk
5 calls, the waste of telephone service which he and not Defendant must pay for, the
6 costs of having to pursue legal remedies, and in the aggravation and consequent
7 health effects of stress these illegal intrusions have caused.

8 54. During each of Defendant's calls, Plaintiff wanted to make or receive
9 a call to/from someone else for his own personal or business reasons and was
10 blocked from doing so by the line being tied up by Defendant.

11 55. As a proximate result of these intrusions, Plaintiff suffered and
12 invasion of his privacy because the call should never have been transmitted to him
13 and rang his private phone at his private residence.

14 56. Plaintiff alleges on information and belief that Defendant made the
15 calls described above intentionally, in the sense that the number called was the one
16 they meant to call in pitching their services.

17 57. Plaintiff alleges on information and belief that Defendant made the
18 calls described above knowing that they were made in contravention of the TCPA
19 and other telemarketing laws and regulations.

20
21 **CLASS ACTION ALLEGATIONS**

22
23 58. **Description of the Class:** Plaintiffs bring this class action against
24 Defendant for injunctive relief and damages and all other relief available at law
25 and in equity on behalf of themselves and members of the following class of
26 persons:

27 *All persons and entities located within the United States of America*
28 *who claim to be able to provide a phone bill or statement showing*

1 *they were a residential telephone subscriber and that their number*
2 *was registered on the National Do-Not-Call Registry to whose*
3 *residential telephone Defendant and/or its agents transmitted two or*
4 *more telemarketing calls in one calendar year without prior express*
5 *written consent from the called party or an ‘existing business*
6 *relationship’ at any time from March 14, 2019 to the present,*
7 *including up to and through trial.*

8
9 59. Excluded from the Class are governmental entities, Defendant, any
10 entity in which Defendant have a controlling interest, and Defendant’ officers,
11 directors, affiliates, legal representatives, employees, co-conspirators, successors,
12 subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or
13 judicial officer presiding over this matter and the members of their immediate
14 families and judicial staff.

15 60. Plaintiff reserves the right to modify the Class description and the
16 Class period based on the results of discovery.

17 61. **Numerosity:** The proposed Class is so numerous that individual
18 joinder of all its members is impracticable. Due to the nature of the evidence of
19 the number of calls made by Defendant, Plaintiffs believe that the total number of
20 Class members is at least in the tens of thousands and members and the members
21 are geographically dispersed across California and the United States. While the
22 exact number and identities of the Class members are unknown at this time, such
23 information can be ascertained through appropriate investigation and discovery,
24 namely through Defendant’s call records. The disposition of the claims of the
25 Class members in a single class action will provide substantial benefits to all
26 parties and to the Court.

27 62. **Common Questions of Law and Fact Predominate:** There are
28 many questions of law and fact common to the representative Plaintiff and the

1 Class, and those questions substantially predominate over any questions that may
2 affect individual Class members. Common questions of fact and law include, but
3 are not limited to, the following:

- 4 a. Whether Defendant transmitted two or more sales calls in any one
5 calendar year to numbers on the National “Do-Not-Call” Registry.
- 6 b. Whether Defendant transmitted these calls without prior express
7 consent from the owners of those lines or a business relationship with them
8 established before the calls were made.
- 9 c. Whether the transmission of these calls was done willfully or
10 knowingly by Defendant.
- 11 d. Whether agency relationships giving rise to TCPA liability exist
12 amongst and between Defendant and its agents.

13 **63. Typicality:** Plaintiff’s claims are typical of the claims of the
14 members of the Class. Plaintiff and all members of the Class have been similarly
15 affected by Defendant’s common course of conduct since Defendant has
16 repeatedly called the Class to sell their financial products.

17 **64. Adequacy of Representation:** Plaintiff will fairly and adequately
18 represent and protect the interests of the Class. Plaintiff has retained counsel with
19 experience in handling complex litigation who has been previously certified as
20 class counsel. Plaintiff and class counsel are committed to vigorously prosecuting
21 this action on behalf of the Class and have the financial resources to do so. Neither
22 Plaintiff nor class counsel have any interests adverse to those of the Class.

23 **65. Superiority of a Class Action:** Plaintiff and the members of the
24 Class suffered, and will continue to suffer, intangible and tangible harm as a result
25 of Defendant’s unlawful and wrongful conduct. A class action is superior to other
26 available methods for the fair and efficient adjudication of the present controversy.
27 Individual joinder of all members of the class is impractical. Even if individual
28 class members had the resources to pursue individual litigation, it would be unduly

1 burdensome to the courts in which the individual litigation would proceed.
2 Individual litigation magnifies the delay and expense to all parties in the court
3 system of resolving the controversies engendered by Defendant's common course
4 of conduct. The class action device allows a single court to provide the benefits of
5 unitary adjudication, judicial economy, and the fair and efficient handling of all
6 class members' claims in a single forum. The conduct of this action as a class
7 action conserves the resources of the parties and of the judicial system and protects
8 the rights of the class member. Furthermore, for many, if not most, a class action
9 is the only feasible mechanism that allows therein an opportunity for legal redress
10 and justice

11 66. Adjudication of individual class member's claims with respect to
12 Defendant would, as a practical matter, be dispositive of the interests of other
13 members not parties to the adjudication and could substantially impair or impede
14 the ability of other class members to protect their interests.

15
16 **CAUSES OF ACTION**

17
18 **FIRST CAUSE OF ACTION: TCPA VIOLATION**
19 **CALL TO NUMBER ON THE NATIONAL "DO-NOT-CALL" REGISTRY**
20 **(On Behalf of the Plaintiff Class)**

21
22 67. Plaintiff realleges all paragraphs above and incorporates them herein
23 by reference.

24 68. Plaintiff is bringing this action pursuant to the provisions of the
25 Telephone Consumer Protection Act of 1991 (47 U.S.C. §227 and 47 C.F.R.
26 §64.1200 – "TCPA").

27 69. Subdivision (c) (2) of Section 64.1200 of Title 47 of the Code of
28 Federal Regulations makes it unlawful for any person to "initiate any telephone

1 solicitation” to “A residential telephone subscriber who has registered his or her
2 telephone number on the national do-not-call registry of persons who do not wish
3 to receive telephone solicitations.”

4 70. At all times relevant to this complaint, Plaintiff had registered his
5 residential telephone number on the national do-not-call registry maintained by the
6 U.S. Government.

7 71. Defendant has called Plaintiff’s residential telephone line for
8 solicitation purposes at least twice during a calendar year during the statutory
9 period of the last 4 years, pursuant to 28 U.S.C. § 1658. These calls are the only
10 calls known to Plaintiff at this time and Plaintiff states on information and belief,
11 without yet having the aid of full discovery, that it is quite likely that Defendant
12 has made many more violative calls to Plaintiff’s residential telephone line. These
13 calls were not made in error, nor did Defendant have express permission from
14 Plaintiff to call, nor did Defendant have a personal relationship with Plaintiff. 37
15 C.F.R. § 64.1200 (c) (i), (ii), & (iii).

16 72. Subdivision (c)(5) of section 227 of title 47 of the United States Code
17 permits a private right of action in state court for violations the National “Do-Not-
18 Call” Registry rules promulgated thereunder. Plaintiff may obtain relief in the
19 form of injunctive relief or Plaintiff may recover up to \$500.00 for each violation,
20 or both. If the court finds that Defendant's violations were willful or knowing, it
21 may, in its discretion, award up to three times that amount.

22
23
24 ///

25
26 ///

27
28 ///

1 WHEREFORE Plaintiffs pray for judgment against Defendant, and each of
2 them, as follows:

3 On the FIRST CAUSE OF ACTION:

- 4 1. For an award of \$500.00 for each violation of 47 U.S.C. § 227(c)(2);
- 5 2. For an award of \$500.00 for each violation of 47 U.S.C. § 227(b)(1)(B)
- 6 3. For an award of \$1,500.00 for each such violation found to have been
7 willful;
- 8 4. For injunctive relief pursuant to 47 U.S.C. 227(c)(5)(A);

9 On ALL CAUSES OF ACTION:

- 10 5. For attorney's fees pursuant to all applicable federal and state statutes;
- 11 6. For costs of suit herein incurred; and
- 12 7. For such further relief as the Court deems proper.

13
14 DATED: March 14, 2023

PRATO & REICHMAN, APC

15
16 /s/Christopher J. Reichman, Esq.
17 By: Christopher J. Reichman, Esq.
18 **Prato & Reichman, APC**
19 Attorneys for Plaintiff,
20 Paul Sapan
21
22
23
24
25
26
27
28